

1 AN ACT relating to promoting outdoor recreation and tourism development by
2 establishing the Kentucky Mountain Regional Recreation Authority and making an
3 appropriation therefor.

4 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

5 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
6 READ AS FOLLOWS:

7 *As used in Sections 1 to 5 of this Act, unless the context requires otherwise:*

- 8 *(1) "Authority" or "KMRRRA" means the Kentucky Mountain Regional Recreation*
9 *Authority established in Section 2 of this Act;*
- 10 *(2) "Board" means the board of directors of KMRRRA;*
- 11 *(3) "County" means a county, charter county, urban-county government, unified*
12 *local government, or consolidated local government;*
- 13 *(4) "Kentucky Mountain Recreational Area" or "KMRA" means lands on which*
14 *there is a system of recreational trails, including streams, rivers, and other*
15 *waterways, and appurtenant facilities, including trailhead centers, parking areas,*
16 *camping facilities, picnic areas, recreational areas, historic or cultural*
17 *interpretive sites, and other facilities in Kentucky and designated by the KMRRRA*
18 *as a part of the KMRA;*
- 19 *(5) "Land" means roads, water, watercourses, buildings, structures, and machinery*
20 *or equipment thereon when attached to the realty;*
- 21 *(6) "Landowner" means a tenant, lessee, occupant, or person in control of the*
22 *premises;*
- 23 *(7) "Participating county" means a county that has qualified under subsection (5) of*
24 *Section 2 of this Act;*
- 25 *(8) "Participating landowner" means a landowner who owns land in a participating*
26 *county and has a contractual agreement with the KMRRRA for trail development*
27 *as part of the KMRA;*

1 (9) "Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing,
2 hiking, horseback riding, hunting, kayaking, motorcycle riding, rock climbing,
3 fishing, swimming, archaeological activities, nature study, off-highway vehicle
4 driving, pleasure driving, watersports, winter sports, visiting or viewing historical
5 or scenic sites, and otherwise using land for purposes pertaining to recreation or
6 trail activities; and

7 (10) "Target county" means Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott,
8 Knox, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Morgan, Owsley, Perry,
9 Pike, Powell, or Wolfe County.

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) The Kentucky Mountain Regional Recreation Authority is hereby created and
13 established as an independent, de jure municipal corporation and political
14 subdivision of the Commonwealth and shall exercise all of the powers that a
15 corporation may lawfully exercise under the laws of the Commonwealth. The
16 authority shall be a public body corporate and politic and an instrumentality of
17 the Commonwealth, established with all the general corporate powers incidental
18 thereto. The authority shall be attached to the Tourism, Arts and Heritage
19 Cabinet for administrative purposes only. The authority shall be endowed with
20 perpetual succession, with powers to adopt bylaws and administrative regulations,
21 subject to KRS Chapter 13A, for the orderly conduct of its affairs.

22 (2) The purpose of the authority is to establish, maintain, and promote a recreational
23 trail system throughout the KMRA to increase economic development, tourism,
24 and outdoor recreation for residents and visitors. The recreational trail system
25 shall be located with significant portions of the system situated on private
26 property made available for use through lease, license, easement, or other
27 appropriate legal form by willing landowners.

- 1 (3) The authority shall be governed by a board of directors consisting of
2 representatives from participating counties and the Commonwealth as provided
3 in this section.
- 4 (4) The authority and board shall become operational when sixteen (16) target
5 counties complete the requirements established by subsection (5)(a)1. of this
6 section. When at least sixteen (16) target counties become participating counties,
7 the secretary of the Tourism, Arts and Heritage Cabinet shall notify the county
8 judge/executive of each of the participating counties, as well as the board
9 members described in subsection (6) of this section, that the requirements have
10 been met for the authority and board to become operational. The secretary shall
11 also establish a date, time, and place for an initial organizational meeting of the
12 board, and shall serve as interim chair of the initial organizational meeting until
13 such time as a chair is elected. The chair shall be a resident of a participating
14 county.
- 15 (5) To become a participating county, a county shall meet one (1) of the following:
- 16 (a) Any target county may become a participating county upon adoption of a
17 resolution or ordinance by the governing body of the county specifically
18 approving the county's participation in the KMRRA and submission of the
19 adopted resolution or ordinance to:
- 20 1. The secretary of the Tourism, Arts and Heritage Cabinet if the
21 resolution or ordinance is adopted prior to the KMRRA becoming
22 operational pursuant to subsection (4) of this section; or
- 23 2. The KMRRA if the resolution or ordinance is adopted after KMRRA
24 becomes operational; or
- 25 (b) Any county that is not a target county and is contiguous to a target county
26 may become a participating county through an application process
27 developed by the KMRRA. The application shall be approved or rejected by

1 a majority of the board's voting members.

2 (6) The KMRRA board shall consist of the following members:

3 (a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her
4 designee, who shall serve as a nonvoting ex officio member;

5 (b) The commissioner of the Department for Local Government or his or her
6 designee, who shall serve as a nonvoting ex officio member;

7 (c) The executive director of the authority, who shall serve as a nonvoting
8 member;

9 (d) One (1) representative from each participating county, who shall be either:

10 1. The county judge/executive; or

11 2. The county judge/executive's designee, who shall be an individual
12 involved with economic development, tourism, recreation, or a related
13 area within the county; and

14 (e) One (1) landowner or his or her designee, who shall be selected by
15 participating landowners.

16 (7) (a) The board membership of each county judge/executive or his or her
17 designee shall:

18 1. Begin with the county judge/executive's term of office; and

19 2. End with the county judge/executive's term of office.

20 If a county judge/executive ceases to serve as the county judge/executive
21 prior to the end of his or her term, he or she shall be removed from the
22 board, and his or her replacement as county judge/executive shall serve on
23 the board for the remainder of the term.

24 (b) The term of the landowner member shall be four (4) years, and he or she
25 may be reappointed for one (1) successive term.

26 (8) (a) The ten (10) voting members of the board shall be:

27 1. Nine (9) of the county representatives or their designees described in

1 subsection (6)(d) of this section who have been accorded voting status
2 under paragraphs (b) to (e) of this subsection; and

3 2. One (1) landowner or his or her designee described in subsection
4 (6)(e) of this section.

5 (b) The nine (9) initial county representatives shall be the county
6 judges/executive of Breathitt, Martin, Perry, Knott, Leslie, Letcher, Pike,
7 Magoffin, and Floyd Counties or their designees in that order. The first
8 three (3) representatives listed shall serve a three (3) year term as voting
9 members, the next three (3) representatives shall serve a two (2) year term
10 as voting members, and the remaining three (3) representatives shall serve a
11 one (1) year term as voting members.

12 (c) After each term ends, the voting county representative shall be replaced by
13 one (1) of the county judges/executive or his or her designee from one (1) of
14 the target counties whose representative has not yet served as a voting
15 member.

16 (d) After the third year of operation, each new voting member shall serve a
17 term of three (3) years, then step down and let a representative from a
18 county whose representative has not served as a voting member take his or
19 her place.

20 (e) Once representatives from all participating counties within KMRA have
21 each served one (1) term, the rotation shall begin again. The rotation order
22 may vary as long as no participating county has a representative serve as a
23 voting member more than four (4) years more than any other county in a
24 four (4) year period.

25 (9) (a) The board shall meet at least once annually to elect officers, establish a
26 regular meeting schedule, and perform other duties as may be prescribed in
27 the authority's bylaws. The board chair may call special meetings at any

1 time.

2 (b) Notice of each meeting shall be made in writing and delivered to board
3 members at least seven (7) days before the scheduled meeting date.
4 Electronic mail is an acceptable form of notice of special meetings, so long
5 as it is sent to directors at least seven (7) days before the scheduled meeting
6 date.

7 (c) The presence of a majority of the total voting members of the KMRRA
8 board shall constitute a quorum. Vacant board positions shall be counted
9 against the quorum total necessary for board action.

10 (10) The KMRRA board:

11 (a) Shall elect a chair, vice chair, secretary, treasurer, and any other officers as
12 established in the bylaws of the board;

13 (b) May appoint temporary and standing committees to accomplish the
14 purposes of Sections 1 to 5 of this Act and shall clearly describe the role,
15 responsibilities, and tenure of each committee so created;

16 (c) Shall adopt bylaws for the management and regulation of its affairs and all
17 other matters necessary to effect proper management and accountability of
18 the board. The bylaws shall include, at a minimum, the following:

19 1. The powers and duties of the board's members and the manner and
20 number of officers to be elected from among the board members;

21 2. The terms, conditions, and manner in which a board member will be
22 removed; and

23 3. The terms and conditions under which a board member will be paid to
24 attend meetings, if at all, and the extent to which members will be
25 reimbursed for travel and other expenses and any requirements for
26 approval of expense reports, if applicable;

27 (d) Shall review and approve an annual budget;

1 (e) Shall annually procure an audit of the authority's financial systems,
2 conducted in accordance with generally accepted auditing standards. The
3 board may select an independent certified public accountant or the Auditor
4 of Public Accounts to perform the audit. If the audit is performed by an
5 independent certified public accountant, the Auditor of Public Accounts
6 shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but
7 may perform an audit at his or her discretion. A copy of the audit shall be
8 sent to the Legislative Research Commission within ten (10) days of receipt
9 by the board;

10 (f) Shall ensure that all administrative costs for operating the authority are
11 paid from funds accruing to the authority. The authority, its board, and its
12 staff shall incur no liability or obligation beyond the extent to which
13 revenues have been provided under Sections 1 to 5 of this Act;

14 (g) May seek administrative and management assistance through written
15 agreement with state agencies, local area development districts, or local
16 governing bodies until such time as the board has secured sufficient
17 funding through grants, loans, fee systems, or any other funding source to
18 hire staff;

19 (h) Shall employ an executive director to act as its chief executive officer to
20 serve at its will and pleasure; and

21 (i) Shall establish personnel, retirement, and benefit systems through
22 professional programs approved by the board.

23 (11) The executive director:

24 (a) May, with permission of the board, employ any other personnel considered
25 necessary, retain temporary services, and retain consultants;

26 (b) Shall carry out plans to implement Sections 1 to 5 of this Act and to exercise
27 those powers enumerated in the bylaws of the board;

1 (c) Shall, along with any staff with responsibilities so delegated by the executive
2 director, ensure that all minutes, records, and orders of the authority and its
3 board are complete and available for public inspection, if necessary; and

4 (d) Shall prepare narrative and financial reports of the authority's fiscal
5 obligations and submit these reports to the board at regularly scheduled
6 meetings or as otherwise directed.

7 (12) The executive director, all full-time or part-time personnel, all seasonal
8 employees, and all contractual employees, if any, shall be paid from funds
9 accruing to the authority and authorized in a budget approved by the board.

10 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) The KMRA shall:

13 (a) Supervise the design and construction of trail systems within the KMRA
14 and provide all management functions for the trails and for any other
15 property built, acquired, or leased pursuant to its powers under Sections 1 to
16 5 of this Act;

17 (b) Construct, develop, manage, maintain, operate, improve, renovate, finance,
18 or otherwise provide for recreational and trail-related activities and
19 facilities on designated public lands and private lands of participating
20 landowners who have voluntarily entered into use agreements with the
21 board;

22 (c) Promote the growth and development of the trail system, tourism, and the
23 hotel, restaurant, and entertainment industry within the KMRA and the
24 Commonwealth, through marketing KMRA to enhance local economic and
25 tourism development;

26 (d) Establish agreements with other persons, businesses, agencies,
27 organizations, or any other entity to levy a surcharge on tickets for events,

- 1 activities, festivals, or functions that are cosponsored with other entities and
2 contribute to the authority's operating revenue; and
- 3 (e) Procure insurance against any losses in connection with its property,
4 licenses, easements, or contracts, including hold-harmless agreements,
5 operations, or assets in such amounts and from such insurers as the board
6 considers desirable.
- 7 (2) The board's management program shall prioritize contractual arrangements with
8 private landowners to use land for recreational purposes, which shall not
9 diminish the participating landowner's interest, control, or profitability of the
10 land. If necessary to implement a comprehensive trail system, the board may also
11 contract with public landowners through contractual agreements that recognize
12 the primary mission for which the public entity controls and manages the land.
- 13 (3) The board may carry out any of the following to accomplish the purposes of
14 Sections 1 to 5 of this Act:
- 15 (a) Acquire, own, and hold property, and all interests therein, by deed,
16 purchase, gift, devise, bequest, or lease, or by transfer from the State
17 Property and Buildings Commission, except that the authority shall not
18 acquire property through the exercise of the power of eminent domain;
- 19 (b) Dispose of any property acquired in any manner provided by law;
- 20 (c) Lease property, whether as lessee or lessor, and acquire or grant through
21 easement, license, or other appropriate legal form, the right to develop and
22 use property and open it to the use of the public;
- 23 (d) Mortgage or otherwise grant security interests in its property;
- 24 (e) Maintain sinking funds and reserves as the board determines appropriate
25 for the purposes of meeting future monetary obligations and needs of the
26 authority;
- 27 (f) Sue and be sued, plead and be impleaded, and complain and defend in any

- 1 court;
- 2 (g) Make contracts and execute instruments necessary for carrying on its
- 3 business, including contracts with any Kentucky state agency, the federal
- 4 government, or any person, individual, partnership, or corporation to effect
- 5 any or all of the purposes of Sections 1 to 5 of this Act;
- 6 (h) Accept grants and loans from and enter into contracts and other
- 7 transactions with any federal agency, regional commission, or state agency
- 8 for accomplishing the purposes of Sections 1 to 5 of this Act;
- 9 (i) Maintain an office at any place within the KMRA as the board may
- 10 designate;
- 11 (j) Borrow money and issue bonds, security interests, or notes;
- 12 (k) Provide for and secure the payment of the bonds, security interests, or
- 13 notes;
- 14 (l) Provide for the rights of the holders of the bonds, security interests, or
- 15 notes;
- 16 (m) Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- 17 (n) Accept gifts or grants of property, security interests, money, labor, supplies,
- 18 or services from any governmental unit or from any person, firm, or
- 19 corporation;
- 20 (o) Establish a regional recreational trail system based upon contracts and
- 21 agreements with participating landowners. The board may enter into
- 22 contracts with landowners, and other persons holding an interest in the
- 23 land being used for its recreational facilities, to hold those landowners
- 24 harmless with respect to any claim in tort growing out of the use of the land
- 25 for public recreation or growing out of the recreational activities operated
- 26 or managed by the board from any claim, except a claim for damages
- 27 proximately caused by the willful or malicious conduct of the landowner or

- 1 any of his or her agents or employees;
- 2

(p) 1. Establish a fee-based system of permits, user registrations, or other

3 trail or facility access mechanisms.

4 2. The fees may be imposed for access to and use of the trails, parking

5 facilities, visitor centers, or other trail-related recreational purpose

6 facilities or recreation activities that are part of the KMRA or as an

7 admission to an event.

8 3. The fees shall be decided by the board.

9 4. The KMRA shall retain and use the revenue from fees for any

10 purposes consistent with Sections 1 to 5 of this Act;

11

(q) Promulgate administrative regulations in accordance with KRS Chapter

12 13A to govern use and maintenance of the KMRA and any other matters for

13 effective management of the KMRA;

14

(r) Cooperate and contract with the regional recreation authorities of

15 Tennessee, Virginia, West Virginia, and other contiguous states to connect

16 the trails in Kentucky with similar recreation facilities in those states; and

17

(s) Exercise all of the powers that a corporation may lawfully exercise under

18 the laws of the Commonwealth.

19

(4) Nothing in this section shall be construed as a waiver of sovereign immunity.

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO

21 READ AS FOLLOWS:

- 22

(1) Revenue bonds and revenue refunding bonds of the authority issued under

23 Sections 1 to 5 of this Act do not constitute a debt of the Commonwealth or of any

24 political subdivision of the Commonwealth or a pledge of the faith and credit of

25 the Commonwealth or of any political subdivision, but the bonds shall be payable

26 solely from the funds provided for in Sections 1 to 5 of this Act from revenues

27 resulting from the issuance of bonds.

1 (2) All bonds shall contain on the face of the bond a statement to the effect that
 2 neither the Commonwealth nor any political subdivision of the Commonwealth is
 3 obligated to pay the bond or the interest on the bond, except from revenues of the
 4 recreational project or projects for which they are issued, and that neither the
 5 faith or credit nor the taxing power of the Commonwealth or any political
 6 subdivision of the Commonwealth is pledged to the payment of the principal or
 7 the interest on the bonds.

8 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
 9 READ AS FOLLOWS:

10 A participating landowner who has a contractual agreement with the KMRA for use
 11 of private land as part of the KMRA does not waive any protection granted to the
 12 landowner by KRS 411.190.

13 ➔Section 6. KRS 147A.090 is amended to read as follows:

14 Each district board of directors shall have the power, duty, and authority to:

- 15 (1) Establish such functional advisory committees as may be necessary and advisable.
 16 These functional advisory committees shall be organized to meet such guidelines as
 17 may be required for federal or state assistance;
- 18 (2) Conduct the necessary research and studies and coordinate and cooperate with all
 19 appropriate groups and agencies in order to develop, and adopt and revise, when
 20 necessary, a district development plan or series of plans, including, but not limited
 21 to, the following districtwide plan elements: goals and objectives; water and sewer;
 22 land-use; and open space and recreation. Such plans shall serve as a general guide
 23 for public and private actions and decisions to assure the development of public and
 24 private property in the most appropriate relationships;
- 25 (3) Prepare annually a report of its activities to the cities and counties within the
 26 district, the legislature, and the Governor. The board shall make copies of the report
 27 available to members of the public within the district;~~and~~

- 1 (4) Comply with the provisions of KRS 65A.010 to 65A.090; and
- 2 (5) Cooperate with the Kentucky Mountain Regional Recreation Authority
- 3 established in Section 2 of this Act for the purpose of establishing, maintaining,
- 4 and promoting recreational trails to increase economic development, tourism,
- 5 and outdoor recreation for Kentucky's residents and visitors, not only in eastern
- 6 Kentucky but throughout the Commonwealth.